

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LAURINCE O'SHEIGH SIMPSON,

Plaintiff,

v.

D. CALDWELL, et al.,

Defendants.

No. C 13-03348 EJD (PR)

ORDER VACATING ORDER OF
DISMISSAL; ORDERING CLERK TO
REOPEN THIS ACTION; AND
GRANTING LEAVE TO FILE FIRST
AMENDED COMPLAINT


Plaintiff, a state prisoner at Correctional Training Facility - Soledad ("CTF-Soledad"), filed a letter on July 18, 2013, which initiated this civil rights action under 42 U.S.C. § 1983. The action was dismissed on October 17, 2013, due to Plaintiff's failure to file a proper complaint in the time provided. In the interest of justice, the Court granted Plaintiff an opportunity to have the matter reopened upon filing of a proper complaint. On December 6, 2013, Plaintiff filed a complaint seeking an "emergency" preliminary injunction prohibiting prison officials at CTF-Soledad from transferring Plaintiff to another facility. (Docket No. 17.) On August 21, 2014, the Court ordered Plaintiff to file with the Court a notice of his current address and his continued intent to prosecute. (Docket No. 18.) On October 17, 2014, Plaintiff filed notice of his intent to prosecute and sought to file an amended complaint. (Docket No. 19.) The Court construes this notice as a motion to reopen the action and for leave to file an amended complaint. Plaintiff's

1 motion is GRANTED.

2 The October 17, 2013 Order of Dismissal and Judgment are vacated and the Clerk
3 shall reopen this case. Plaintiff shall file an amended complaint no later than **thirty (30)**
4 **days** from the date of this Order. The amended complaint must include the caption and
5 civil case number used in this order (13-03348 EJD (PR)) and the words FIRST
6 AMENDED COMPLAINT on the first page. Because an amended complaint completely
7 replaces the previous complaints, Plaintiff must include in his amended complaint all the
8 claims he wishes to present and all of the defendants he wishes to sue. See Ferdik v.
9 Bonzelet, 963 F.2d 1258, 1262 (9th Cir. 1992). Plaintiff may not incorporate material
10 from the prior complaint by reference. Claims and defendants not included in the First
11 Amended Complaint will not be considered by the Court. See King v. Atiyeh, 814 F.2d
12 565, 567 (9th Cir. 1987). **Failure to file respond in accordance with this court order**
13 **in the time provided will result in the dismissal without prejudice of this action**
14 **without further notice to Plaintiff.**

15 It is Plaintiff's responsibility to prosecute this case. Plaintiff must keep the court
16 informed of any change of address and must comply with the court's orders in a timely
17 fashion. Failure to do so may result in the dismissal of this action for failure to prosecute
18 pursuant to Federal Rule of Civil Procedure 41(b).

19
20 DATED: 4/2/2015


EDWARD J. DAVILA
United States District Judge

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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Plaintiff,

v.

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Defendants.

Case No. [5:13-cv-03348-EJD](#)

CERTIFICATE OF SERVICE

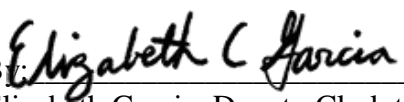
I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 4/3/2015, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Laurince O'Sheigh Simpson ID: E08430
Correctional Training Facility-North State Prison
P.O. Box 705
Soledad, CA 93960-0705

Dated: 4/3/2015

Richard W. Wieking
Clerk, United States District Court


By: Elizabeth Garcia, Deputy Clerk to the
Honorable EDWARD J. DAVILA